

William Rivera-Alvarez, PR Bar No. 304111
Christopher Kyle Johnston, CA Bar No. 261474
Law Office of Christopher K. Johnston, LLC
268 Ponce de Leon Ave., Suite 1020
San Juan, PR 00918
Office: (844) 345-3784
Fax: (844) 644-1230
william@masstortslaw.com
kyle@masstortslaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. 2:15-MD-02641-DGC

**MASTER SHORT FORM
COMPLAINT FOR DAMAGES
FOR INDIVIDUAL CLAIMS AND
DEMAND FOR JURY TRIAL**

FIRST AMENDED SHORT FORM COMPLAINT

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364). Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

Philip Pero deceased

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

Not Applicable

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian conservator):

Barbara J. Pero, as Proposed Personal Representative of the Estate of Philip Pero, Deceased.

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

New York

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

New York

7. District Court and Division in which venue would be proper absent direct filing:

8. Defendants (check Defendants against whom Complaint is made):

☒ C. R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in

Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery® Vena Cave Filter

☒ G2® Vena Cava Filter

☐ G2® Express Vena Cava Filter

☐ G2® X Vena Cava Filter

☐ Eclipse® Vena Cava Filter

☐ Meridian® Vena Cava Filter

☐ Denali® Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

June 13, 2009.

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect

(Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

- ☒ Count IV: Negligence – Design
- ☒ Count V: Negligence – Manufacture
- ☒ Count VI: Negligence – Failure to Recall/Retrofit
- ☒ Count VII: Negligence – Failure to Warn
- ☒ Count VIII: Negligent Misrepresentation
- ☒ Count IX: Negligence *Per Se*
- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of Implied Warranty
- ☒ Count XII: Fraudulent Misrepresentation
- ☒ Count XIII: Fraudulent Concealment
- ☒ Count XIV: Violations of Applicable New York
Law Prohibiting Consumer Fraud and Unfair and
Deceptive Trade Practices
- ☐ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): _____ (please state the facts
supporting this Count in the space immediately below)

13. Jury Trial demanded for all issues so triable?

☒ Yes

☐ No

RESPECTFULLY SUBMITTED this 17 day of October, 2018.

**LAW OFFICE OF
CHRISTOPHER K. JOHNSTON, LLC**

By: /s/ William Rivera-Alvarez

William Rivera-Alvarez
Christopher K. Johnston
268 Ponce de Leon Ave.,
Suite 1020
San Juan, PR 00918
Office: (844) 345-3784
william@masstortslaw.com

I hereby certify that on this 17 day of October, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ William Rivera-Alvarez